

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JAIME PIERO COLE,	§	
	§	
Petitioner	§	
	§	
v.	§	Civil Action No. 4:17-cv-940
	§	
LORIE DAVIS,	§	THIS IS A CAPITAL CASE
Director, Texas Department of	§	
Criminal Justice, Correctional	§	
Institutions Division,	§	
	§	
Respondent.	§	

ADVISORY

Shawn Nolan, attorney for Petitioner Jaime Piero Cole, submits this Advisory to notify the Court of the following:

1. Cole filed his Amended Petition for Writ of Habeas Corpus on February 6, 2019. ECF No. 30. The petition contained potentially unexhausted claims.
2. On September 20, 2019, after Cole filed a motion for stay and abeyance to exhaust his potentially unexhausted claims in state court, this Court granted Cole's motion to stay and ordered him to file a second application for writ of habeas corpus in state court. ECF No. 49 at 10.
3. On April 1, 2020, the Texas Court of Criminal Appeals dismissed Cole's application for writ of habeas corpus. *Ex Parte Jaime Piero Cole*, No. WR-84,322-02 (ECF No. 58-1 at 2-3).
4. On April 15, 2020, this Court ordered Cole to file his Amended Petition for Writ of Habeas Corpus on or before June 15, 2020. ECF No. 54.

5. On April 20, 2020, the Supreme Court decided *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020). In *Ramos*, the Supreme Court recognized for the first time that “the Sixth Amendment right to a jury trial is ‘fundamental to the American scheme of justice’ and incorporated against the States under the Fourteenth Amendment,” and includes the unqualified right to a unanimous jury. *Id.* at 1397.
6. On June 15, 2020, Cole filed his Amended Petition for Writ of Habeas Corpus. ECF No. 58.
7. Claim XV of Cole’s Amended Petition is based on *Ramos*. ECF No. 58 at 174. Claim XV has not been presented to the state courts.
8. Respondent’s Answer to Cole’s Amended Petition is currently due September 15, 2020. ECF No. 54.
9. Counsel for Petitioner contacted counsel for Respondent, Assistant Attorney General Cara Hanna and proposed a briefing schedule to allow the parties to brief the issue of whether it is necessary for Cole to attempt to exhaust Claim XV in state court.
10. Counsel for Respondent notified counsel for Petitioner that they were opposed to such a briefing schedule.
11. Undersigned counsel is prepared to file a motion for stay and abeyance of federal court proceedings pending exhaustion of state remedies of Claim XV within thirty days of an Order from this Court directing him to do so, or will file such motion after Respondent files her answer.
12. Undersigned counsel looks for direction from the Court.

Respectfully submitted,

/s/ Shawn Nolan

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Date: July 8, 2020

CERTIFICATE OF SERVICE

I hereby certify that on this date, I served the foregoing on the following person by ECF filing:

Cara Hanna
Assistant Attorney General
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/s/ Shawn Nolan
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Date: July 8, 2020